

BARNET POISONING EVIDENCE BARRED.

MOLINEUX MAY NEVER BE TRIED AGAIN.

MISS STONE NOW IN CAVE PRISON OF BRIGANDS.

SOFIA, Oct. 15.—The parents of Mme. Tsika, the Bulgarian teacher, who was captured by brigands with Miss Ellen M. Stone, the American missionary, have received another letter from their daughter, urging the step already taken, namely, stopping the military pursuit, because the brigands threaten the prisoners with immediate death in the event of danger to themselves.

The writer says that she and Miss Stone are hidden in a subterranean retreat, and are treated courteously. She also says that the only means of securing their release is to pay the ransom demanded.

Although the time fixed by the brigands who abducted Miss Stone for the payment of the ransom demanded expired a week ago no one has appeared at Samakoff to claim the money or to announce the fate of the captive.

It is now learned that the band has dissolved, but that Miss Stone is kept under surveillance at a frontier point. This is due to snow and cold weather rendering the mountains uninhabitable.

The efforts of the police to arrest Saraff, ex-President of the Macedonian

Missionary and Mme. Tsika, Held in Underground Retreat, Write to Friends Calling for Immediate Aid—Ransom Ready, but Not Called For.

Committee, who is suspected of complicity in the kidnapping, are still unavailable. The failure is due to the sympathy of the inhabitants and local authorities.

Charles M. Dickinson, who is here in the interests of Miss Stone, having come from Constantinople, where he is the United States Consul, says that the brigands are not likely to murder Miss Stone, but that she is suffering extremely because of being rushed from place to place by her captors, who are evading the troops on the frontier of Turkey and Bulgaria.

Mr. Dickinson says that he has received information of the birth of a child to Mme. Tsika, who was captured with Miss Stone. He says that the birth was doubtless hastened by the hardships the captives have undergone.

Mr. Dickinson says that the brigands are likely to raise the price they demand instead of making it lower. He

ridicules the idea that Miss Stone may be forced to marry one of her captors, saying that a brigand would not marry a woman of fifty.

It may be possible that Mr. Dickinson is over-optimistic, as a letter received from Miss Stone by W. W. Peet, Treasurer of the Turkish Mission at Constantinople, does not give assurance of her safety. She states that at the time of writing the brigands had threatened to kill her and Mme. Tsika if they were pursued by troops. She also urged that no time be lost in securing her and her companion's release.

GERMAN VICTIM OF BANDITS.

LONDON, Oct. 15.—The Daily Mail has a despatch from Vienna which says: "It is announced from Bucharest that Herr Rosenthal, the representative of a German firm, has been kidnapped by Bulgarian brigands at Silistria. The Roumanian Government has sent a protest to Sofia and the Bulgarian Government has ordered troops to pursue the brigands."

"It is rumored that the Macedonian Committee has decided to capture every foreigner within reach in order to attract European attention to the lack of public security in Macedonia."

The Daily Express has received the following from Vienna:

"Today, the driver who accompanied Mrs. Rosenthal, who was kidnapped, has arrived at Sofia. He says her captors are Turks. The Bulgarian police are not satisfied with his statements, are keeping him under surveillance."

JEROME SHOWED FIGHT; BROUGHT MAN TO TERMS.

Justice William Travers Jerome, candidate for District-Attorney on the Fusion ticket, was returning from lunch this afternoon to his political headquarters at Canal and Baxter streets. To get to his rooms above McAvoy's saloon the Justice has to pass through the saloon. He was passing through today when young Mr. McAvoy introduced to him two well-dressed men who said they were anxious to talk with the Justice. One of the men had a Masonic button in his buttonhole.

The Justice spoke pleasantly to the two men. Then they urged him to have a drink.

"No," said the Justice, "I'll have to ask you to excuse me, as I have just finished lunch."

The men insisted and finally Justice Jerome consented to take a little—just a little whiskey.

The man with the Masonic emblem spoke very sharply of the tendency toward domination by the Irish, as he called it.

"It's a shame," said he, "that the Irish, who form one-seventh of the population of the City of New York, should rule the city."

Demonstrated that He Knows How to Defend Himself When a Stranger Seemed Ready to Attack.

"See here, my friend," said Jerome, "I want to be heard in this matter. I wouldn't give a cent for a man who, born in another country, comes to this city and forges his own birthplace. Such a man won't make an American worth having."

The stranger grew rather angry at this point, and grabbing the candidate by the lapel of his coat, he shouted at him:

"Look here, you're wrong. I'm an American, and I believe in Americans ruling this country and no one else. I think I'm entitled to have my say in anything to do with the Government of this country, from Dick Croker down. I am surprised, Justice Jerome, that you take such a narrow view of this matter."

The Irish are running this city. Pretty soon they will rule the State. It's an outrage. If I could only go on the stump, I'd show the whole country is coming to. I say, down with them."

The man was getting very vehement now and his close clutch on the judicial coat collar was becoming decidedly irksome. The room was full of interested spectators crowded around the Justice and his questioner.

The Justice managed to free himself from the grasp of the ultra-American, and stepped back. He spoke rather testily, for, too, had a flush on his face, and was very earnest.

"I don't care what you believe, or what you shout," said Jerome. "Any man who comes to this country and becomes a citizen is an American. I don't care whether he is Irish, German, French, Italian, or what he is. He can be just as good an American as a man born in this country."

The Justice might have said more, but just at this point the man with the Masonic button made a jump at him. Jerome stepped back, and for a fraction of a second drew his fists up in a manner which showed that he knew something of the science of self-defense.

The friend of the ultra-American grabbed his companion by the arm, and said to him: "The fellow has been in poor health for some time. The coroner certified that the case was one of suicide."

The Portland flats is the most fashionable apartment building in Washington. It is located on Vermont avenue and fourteenth street, near the White House.

"NOT SCHLEY'S FAULT" DESPATCH WASN'T SENT.

WASHINGTON, Oct. 15.—That a report on the battle of Santiago had been suppressed in the cable office was strongly hinted at in the course of the inquiry.

Lieut.-Commander James H. Sears, who as a lieutenant was Schley's flag-officer on the Brooklyn, had given a detailed account of the battle and the events preceding it.

"Did Commodore Schley give you a despatch to be sent to the Navy Department making a report on the battle?" asked Mr. Rayner.

"He did," replied Lieut.-Commander Sears.

"Was this despatch sent?" asked Admiral Dewey.

He was informed by Mr. Rayner that Schley's despatch had not been forwarded to the Department, although it had been taken to the cable office.

The Court decided that as the despatch had not reached the Department it could not be sent.

"Suppose it was not Commodore Schley's fault that the despatch was not forwarded?" asked Mr. Rayner.

"You can't ask questions of the Court. We are not in the witness-box. Commodore Schley's report is in evidence and that is sufficient."

Mr. Rayner then passed to other points of the inquiry, asking as to the distance between the Brooklyn and the Texas when the former made her turn.

Lieut.-Commander Sears replied that he had only given sufficient attention to see that there was no danger of a collision between the two vessels and did not feel able to give exact figures.

He was sure there was a wide gap of water—possibly about 600 yards.

Describing the engagement of July 3, Lieut.-Commander Sears said:

"I was in my room when I heard the cry of the executive officer. 'Clear ship for action.' I knew what that meant and ran to the quarter deck. I looked about me and saw the prescribed signal 'enemy is coming,' was up and saw that the

Mr. Rayner Hints that the Amiral's Cable Report About the Battle of Santiago Was Suppressed.

was.

"I met the Commodore on the quarter-deck. He directed the signal 'Clear ship for action' followed by the signal to close in, all of which were made. From my position I had a good view of the battle."

"The help of our ship was eased on way or the other to keep our rain pointing toward the Texas. The Texas shortly turned squarely toward the westward, and as she did so I got a view of the next ship following in her wake. It was my observation that the Brooklyn was then held up to meet the approaching Texas. Of course, we ported her."

"The second ship passed in the wake of the first one. I said to the Commodore that it looked as if the second one was going to try and ram us. He, I think, assented. At any rate, the Brooklyn was held toward her and she appeared to me to be uncertain in her course."

The Brooklyn was handled by the captain and quartermaster. She turned after she had passed to the southward of the Texas, and then it was generally remarked on the lower bridge they were all going to try and escape to the westward."

"Just about the time the Viscaya turned Yeoman Ellis came to me and said that the Commodore had ordered the ship to the Viscaya. My judgment confirmed the statement."

"I was about out tactical diameter from that ship now," he said. "I think so, too."

"Then the order was 'Hard astern.' I am not positive who gave that order. I think the Commodore said 'Hard astern,' and Capt. Cook said: 'It is hard astern.'"

"The helm was kept hard astern and the ship swung rapidly in her turn."

etire. When the order was given 'hard astern' I looked at the vessel in our wake and saw that she was making a wide turn. We were completely clear of her, and as we turned we passed well clear of her. After the turn was completed, we found ourselves abreast of or perhaps a little abaft the beam of the leading ship. The vessel with which we were converging course toward the leading ship, the smoke at this time was very dense, but there were two ships in plain sight and occasionally we could get glimpses of the third."

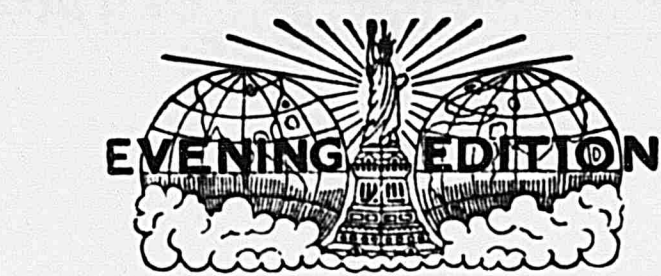
Lieut.-Commander Sears also said that the first information Schley got of the insurgent came from McCalla.

The afternoon session of the court began with the recall of Capt. Francis A. Cook, for the purpose of correcting the testimony given by him yesterday.

While he was on the stand Judge Advocate Lemly asked him the following questions:

"What conversation, if any, did you have with Commodore Schley about the signal had been made 'Round Key West by Yucatan Channel' I do not recollect that at that time anything had been said about that. I went in to see the Commodore about it. I asked him what the signal meant, and he said that he must look the ship; that he must see what he was going toward Key West until he could find an opportunity to coal from the collier; and if he did not find that, he must be near a coal base to keep the ships coaled. I made some remark concerning the weather conditions, that I thought they would be more favorable later. He said, 'Until they are and until I am able to coal from the collier, I must keep within striking distance of coal.'"

"I said that I recognized that he felt the responsibility as no one else could and that it was a serious question. He answered that he recognized that fact, but that he must act in accordance with his judgment, whether right or wrong; that personal consideration was of no account when the safety of the fleet was to be considered. That is about all I recollect."



MAN FOUND DEAD IN BRONX

WOODS SHOT THROUGH HEAD.

The body of a man with a bullet wound in the center of his forehead was found in the wood west of the large

lard mansion in Bronx Park to-day. In his pockets was found a card of "William Hunelke, No. 295 Floyd street, Brooklyn." The man is apparently about fifty years old. A

gold-filled watch, chain and locket and \$2.15 in change were found on him. The police are investigating.

CAPT. HERLIHY'S COUSIN MURDERED?

Richard Herlihy this afternoon called at Jefferson Market Court to ask about his father, Theodore Herlihy, a cousin of Capt. Herlihy, who died yesterday in Bellevue Hospital. He believes his father was murdered.

LATE RESULTS AT ST. LOUIS.

Fourth Race—Harry Duke 1. Alia 2. Miss Gonightly 3. Fifth Race—Swordsman 1. George Lee 2. Wallabout 3.

AT WORTH.

Fourth Race—Odnor 1. Argregor 2. Barrock 3. Fifth Race—W. B. Gates 1. Domadpe 2. Prince Blazes 3.

MRS. PARMENTER SPIRITUALIST FELL FIFTY FEET.

LIEUTENANT'S WIFE A SUICIDE IN WASHINGTON.

While in the Plunged from High Window of Swell Flat.

WASHINGTON, Oct. 15.—Mrs. Parmenter, wife of Lieut. Henry E. Parmenter, a naval officer on duty here, plunged from a four-story window in the Portland flats to-day and, striking on a stone sidewalk fifty feet below, received injuries that resulted in her death.

Mrs. Parmenter had been in poor health for some time. The coroner certified that the case was one of suicide.

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BODY OF A. S. DAVIS FOUND IN FERRY SLIP.

Worked on the Magnet and Had Been in Ill-Health.

A drowned man found floating in a slip near the foot of Whitehall street to-day was identified by Miss Maud A. Jentzen, publisher of a Spiritualist paper, the Magnet, at No. 16 Court street, Brooklyn, as A. S. Davis, sixty years of age, a Spiritualist. He had been employed by her as a clerk.

Two weeks ago she gave Davis a letter to Dr. Harriet Hale, of No. 160 Decatur street, Brooklyn, saying that she would be responsible for the expenses of his treatment, as he was in ill-health. The letter was never delivered to the doctor.

Davis, who lived at No. 125 Livingston street, Brooklyn, the body had been in the water about a fortnight.

BELFAST TO CHALLENGE BANKER MUST GO TO COURT.

14 MILLIONAIRES WILL TRY FOR AMERICA'S CUP.

BELFAST, Ireland, Oct. 15.—A challenge for a series of races for America's Cup, it is expected, will be called by the New York Yacht Club in a few days. From a reliable source it is learned that a syndicate of fourteen Belfast millionaires will issue the challenge through the local club. Plans are under way, and it is understood that the firm of Harlan & Wolff, which built the big transatlantic liner Oceanic, will build the new challenger.

According to the same authority the sum of £10,000 has already been subscribed for the building of the yacht.

WEATHER FORECAST.

Forecast for the thirty-six hours ending at 8 P. M.

Wednesday, for New York City and vicinity—Clear and cool, with frost to-night.

Wednesday fair, fresh to light west winds.

Just a Day's Journey

From New York to Chicago, via the Pennsylvania Limited, leaves West Twenty-third street, at 9:35 A. M. Desobres and Cortland streets at 9:35 A. M. To Care a Cold in One Day

Take Laxative Bromo Quinine Tablets. All druggists refund the money if it fails to cure. E. W. Grove's signature is on each box. 25c.

"It Is Just What I Expected," Says Gen. Molineux—Lawyer Weeks Telephones the Good News to the Prisoner at Sing Sing—Judges Stood 4 to 3 on Barnet Question.

Roland B. Molineux may never be tried again. Bartow S. Weeks thinks he will now go free. Assistant District-Attorney Townsend admits it would be very difficult to convict him a second time.

The Court of Appeals at 2 o'clock this afternoon granted Roland B. Molineux a new trial. All the Judges agreed that errors had been made in admitting portions of the Barnet evidence, and four of the seven voted to exclude all of it.

It was decided that the testimony of handwriting experts was admissible, but under certain restrictions specified in detail in the prevailing opinion written by Judge Werner.

Molineux will now in a few days, on application of his counsel, be brought from the death-chamber at Sing Sing to the Tombs.

JUDGES UNANIMOUS FOR NEW TRIAL. STOOD FOUR TO THREE ON BARNET.

(Special to The Evening World.)

ALBANY, Oct. 15.—Roland B. Molineux, the convicted murderer of Mrs. Katherine Adams, has been granted a new trial.

The Court of Appeals, at 2 o'clock this afternoon, handed down a decision reversing the judgment of murder in the first degree found against him and ordering that he be given a new trial.

In announcing the decision the Court gave out the following statement:

"Every member of the Court of Appeals agrees for the reversal of judgment of the conviction of Molineux on the ground that the trial court erred in receiving in evidence the declarations of Barnet made to Drs. Phillips and Douglass that he had received medicinal powders through the mail."

"All agree that, since the amendment of section 2, of chapter 36, of the laws of 1880, by chapter 555 of the laws of 1888, genuine writings may be received in evidence as standards of comparison with a disputed writing, although such writing may not be the issue on trial, but simply a fact relevant and material to that issue."

"That the genuineness of such writings must be established to the satisfaction of the court by common law evidence, and when that is done handwriting experts may compare the disputed writings with the genuine writings and then give their opinion thereon, but they cannot select and establish the standard of comparison and then compare them with the disputed writing."

All writings proved to the satisfaction of the court by a preponderance of evidence in civil cases, and beyond a reasonable doubt in criminal cases,

1. By witnesses who saw the paper written, or to whom it had been acknowledged.

2. By witnesses familiar with the handwriting of the person charged to be the writer, and who are able to testify from their familiarity to a belief respecting its genuineness.

3. Where the writing is shown to have been recognized and acquiesced in by the person supposed to have written it, or adopted and acted upon by him in his business transactions or other concerns, (may, under the statute, be compared with the disputed writing by witnesses. But the Court should refuse to receive in evidence solely for the purpose of comparison any writing otherwise prejudicial to a defendant.)

Judge Werner wrote the principal opinion.

The only subject about which the members of the Court differed in their opinions relates to the testimony introduced tending to show that Molineux caused the death of Barnet by the same method as that used in taking the life of Mrs. Adams.

Stood Four to Three.

Four of the members of the court, O'Brien, Bartlett, Vann and Werner, J.J., agree that the evidence should not have been received, and the reason for it is stated in the opinions written by Judges O'Brien and Werner.

The other three, Chief Justice Parker and Judges Gray and Haight, hold that the evidence is admissible in that the evidence in the Barnet case pointing toward Molineux tends to identify him as the poisoner who killed Mrs. Adams while attempting to take the life of Cornish by means of that rare poison known as cyanide of mercury, the Chief Judge and Judge Gray writing opinions to that effect.

Judge Werner's Opinion.

The prevailing opinion of the court was written by Judge William E. Werner, of Rochester. His opinion is in part as follows:

"First in order if not importance, is the question whether any evidence was admissible concerning the alleged killing of Barnet. This question may be considered without referring to the specific objections or exceptions of the defense because it was raised so often and in so many ways that it would involve prolixity and prolixity to dwell upon each objection and exception."

"As has been disclosed by the foregoing statement of facts evidence was received upon the trial tending to connect the defendant with the felonious killing of Barnet, for the purpose of proving his guilt of the crime of poisoning Mrs. Adams, which was the offense charged in the indictment."

"The general rule of evidence applicable to criminal trials is that the State cannot prove against a defendant any crime not alleged in the indictment, either as a foundation for a separate punishment or as adding the proofs that he is guilty of the crime charged."

"This rule, so universally recognized and so firmly established in all English-speaking lands, is rooted in that jealous regard for the liberty of the individual which has from from all others, at least since the birth of Magna Charta."

"It is the product of that same humane and enlightened public spirit which, speaking through our common law, has decreed that every person charged with the commission of a crime shall be protected by the presumption of innocence until he has been proven guilty beyond a reasonable doubt."

"This rule and the reasons upon which it rests are so familiar to every student of our law that they need be referred to for no other purpose than to point out the exceptions thereto."

"Generally speaking, evidence of other crimes is competent to prove the specific crime charged when it tends to establish (1) motive, (2) intent, (3) the absence of mistake or accident, (4) a common scheme or plan embracing the commission of two or more crimes so related to each other that proof of one tends to establish the others, (5) the identity of the person charged with the commission of the crime on trial."

"Let us now endeavor to apply to the case at bar each of these exceptions to the general rule."

"The motive for the alleged killing of Barnet is so distinct from the motive assigned for the crime charged, that it is inadmissible to prove the motive in the case at bar."

"The intent for the alleged killing of Barnet is so distinct from the intent assigned for the crime charged, that it is inadmissible to prove the intent in the case at bar."

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"First—As to motive.

"It is obvious that in every criminal trial when proof of motive is an essential ingredient to the evidence against a defendant, the motive to be established is the one which induced the commission of the crime charged. This is too simple for discussion. To hold otherwise would be to sanction the violation of the general rule under the guise of an exception to it."

"What was the motive assigned for the defendant's alleged attempt to kill Cornish? Hatred engendered by quarrels between them, in which Barnet took no part and of which, so far as the State shows, he had no knowledge."

"What was the motive which led to the defendant's alleged attempt to kill Cornish? Jealousy caused by the latter's intervention in a love affair of the former. The mere statement of these two motives suffice to show that they have no relation to the crime charged. The evidence which tends to prove the killing of Barnet throws no light upon the motive which induced the defendant to attempt the killing of Cornish."

"So applied, indeed, is this divergence of motive in the case at bar, that the learned counsel for the people, in the argument herein, abandoned the claim that the motive was common between them and ingenious of the alleged forgeries by the defendant of the names of Barnet and Cornish."

"Of course, no inferences can be drawn from these alleged forgeries of the names of Barnet and Cornish, in the argument herein, abandoned the claim that the motive was common between them and ingenious of the alleged forgeries by the defendant of the names of Barnet and Cornish."

"Is there anything in any of the foregoing which shows a ray of light upon the question of the motive for the attempt to kill Cornish? Not a word."

"There is no more force of the attempt to establish a motive for the alleged attempt to kill the man whose name he had forged. If so, we are at a loss to understand the motive for the killing of Barnet, which does not also inhere in the Cornish letters. If the Barnet letters were genuine, the letters were properly in evidence, that that he was, therefore, guilty of the crime of forgery in the use of each of these names."

"It will thus be seen that under no hypothesis is there any evidence in the 'Barnet' letters to be held to contain any evidence as to the motive for the attempt to kill Cornish. It is not also to be found in the 'Cornish' letters. What has been said about 'Barnet' letters is true of all the evidence relating to the alleged motive by another could be proved to show the intent with which the latter shot a third person, a distinct time and for a distinct cause."

"Certainly not, unless it were also established that the two shootings were committed by the same person, and that the same person in pursuance of a common scheme or plan embraced the commission of two or more crimes so related to each other that proof of one tends to establish the others, (5) the identity of the person charged with the commission of the crime on trial."

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